

February 23, 2015

The regular monthly meeting of the Board of Commissioners of the Bayou Lafourche Fresh Water District was held on Monday, February 23, 2015 at 5:00 p.m. at the Water District office, 1016 St. Mary Street, Thibodaux, LA

Present were: Hugh Caffery, Chairman
Gene Harrell, Vice-Chairman
Greg Nolan, Secretary/Treasurer
Windell Curole
Eli Miles, Jr.

Francis Richard
Lance Authement
Donald Schwab
Judge Jimmy Gaidry
Jake Giardina

Absent: Ron Animashaun

Also present: Dustin Rabalais, T. Baker Smith; Tiffany Bergeron; Lori LeBlanc; Alma Robichaux, BTNEP
Barry Marionneaux, Attorney; Robert Mire; Jerry Waguespack; Nick Porto
Ben Malbrough, Executive Director; Jana Langley, Administrative Assistant

Moved by Commissioner Francis Richard, seconded by Commissioner Jake Giardina to dispense with the reading of the minutes, and approve the minutes of January 20, 2015. Motion carried unanimously.

Moved by Commissioner Jake Giardina, seconded by Commissioner Donald Schwab to approve the accounts payable for December. Motion carried unanimously.

Moved by Vice-Chairman Gene Harrell, seconded by Commissioner Greg Nolan to approve the finance report for December. Motion carried unanimously.

Mr. Ben Malbrough reviewed the graphs he displayed on the wall of the 2012, 2013, and 2014 pumping summary, and explained the different water levels over the years. He explained that with the installation of the new variable speed pump we are able to control the water level better.

Mr. Malbrough announced that the bayou crew position has been filled today by Wayne Thibodaux.

Mr. Malbrough advised that we need to add an agenda item to discuss and adopt a resolution regarding proposed legislative amendments to the BLFWD statutes.

Moved by Commissioner Windell Curole, seconded by Commissioner Lance Authement and unanimously approved to amend the agenda by two-thirds vote to discuss and adopt a Resolution regarding legislative amendments to the present BLFWD statutes.

Mr. Malbrough advised that the Board was presented with the proposed legislative amendments to the BLFWD statutes. The summary of the amendments basically cleans up our definitions in our existing statutes to allow us more police powers. A Resolution was submitted to the Board which authorizes the Chairman to take the necessary action to submit the legislation to the legislative staff and gives them the discretion to revise it. They will advertise it on our behalf and send us a bill.

Moved by Commissioner Judge Jimmy Gaidry, seconded by Vice-Chairman Gene Harrell to adopt the Resolution authorizing Chairman Hugh Caffery to take the necessary action to seek legislative amendments to the present statutes. It also authorizes the Chairman to make any changes to the

legislation after it is reviewed with the legislative staff. Chairman Caffery asked for any discussion on the motion.

Vice-Chairman Gene Harrell asked about the legislation where it talks about the encroachment jurisdiction. He stated from what he remembers and understands we have jurisdiction to the high water mark, and this is saying we are going to change it to 500 feet. Mr. Malbrough answered that this may be one of the things that will be changed around. The reason we are talking about 500 feet is we have to give ourselves a buffer to protect the interest of the bayou.

Chairman Hugh Caffery asked what would require a permit within the 500 feet, and Mr. Barry Marionneaux answered that I simply think that we would have the jurisdiction if there is a violation of an ordinance. Of course, once it's passed the District may want to revise its ordinance in accordance with the powers that are outlined in the legislation. It is more defined as to what pollution is. This goes to anything that would affect the quality of the water.

Vice-Chairman Gene Harrell stated if the property line is above the high water mark normally it would be considered my property. He asked if I want to build a house and pour a slab, would I have to get permission from the District to pour the slab for my house if it is within the 500 feet from the center of the bayou. Mr. Marionneaux answered only if your activity within the 500 feet were in violation of the statute, or a violation of any ordinance that the District may amend once the statute is passed. This doesn't give this Board any powers except for violations.

Chairman Caffery stated that we are trying to catch potential pollution before it happens. Commissioner Windell Curole stated that we are not trying to do permitting. It is saying that when we see a problem we will investigate it, and if it falls within the 500 feet it gives us power to do something about it if it is affecting the water quality.

A lengthy discussion was held regarding why we need to state a distance in the statute. Commissioner Jake Giardina stated that you still have some openings where field water comes into the bayou. He stated that anyone can go back 1000 feet and dump drums of oil which would end up in the bayou. He stated that the distance is almost irrelevant.

Commissioner Greg Nolan stated that first we will have to prove that there is toxicity in the substance. He stated that technically the way EPA and DEQ is right now is if you pump water out of the bayou, it is not legal to let it go back into the bayou because it doesn't meet the standards.

Chairman Hugh Caffery asked for a vote on the motion to adopt the Resolution authorizing Chairman Hugh Caffery to take the necessary action to seek legislative amendments to the present statutes, and further authorizes the Chairman to make any changes to the legislation after it is reviewed with the legislative staff. The vote on the motion was passed unanimously.

Mr. Malbrough advised that Thoma-Sea Constructors is applying to enter into a foreign trade zone which will grant them some exemptions on equipment that they get shipped from other countries that they use to put in their vessels. Part of that foreign trade zone grants them exemptions from local ad valorem taxes. They have worked out a deal with Terrebonne Parish and Lafourche Parish that if they accept their foreign trade zone application that Thoma-Sea agrees for the life of the agreement that they will waive the ad valorem tax exemption. There will be no net change in what we will collect. They need a letter of no opposition from all the taxing authorities who receive ad valorem taxes.

Moved by Commissioner Windell Curole, seconded by Commissioner Francis Richard and unanimously approved that the Bayou Lafourche Fresh Water District issues a letter no opposition to the operation by Thoma-Sea Constructors as a subzone of foreign trade zone if it enters into an agreement with the Terrebonne Parish Consolidated Government to contractually waive the ad valorem property tax exemption for all ad valorem taxes on its inventory within the subzone in Terrebonne Parish.

Mr. Dustin Rabalais, T. Baker Smith, advised that the Mississippi River Reintroduction into Bayou Lafourche project is being advertised for bids. He stated that tomorrow at 10:00 a.m. there will be a mandatory pre-bid meeting. The bids are due by next Thursday, March 5th at 2:00 p.m. Both events will take place in the Board room of BLFWD.

Mr. Malbrough advised that a Resolution needs to be adopted authorizing Chairman Caffery to execute Amendment No. 2 for the Mississippi River Reintroduction into Bayou Lafourche contract. He stated that when they executed the original contract they were under the impression that a much more intensive land rights effort would be needed which we found later was not the case. Amendment No. 2 is only a moving of money from additional services to basic services.

Moved by Commissioner Francis Richard, seconded by Commissioner Windell Curole and unanimously approved to adopt a Resolution authorizing Chairman Hugh Caffery to execute Amendment No. 2 to the T. Baker Smith Engineering Contract relative to the Mississippi River Reintroduction into Bayou Lafourche Project. Amendment No. 2 is basically moving money from additional services to basic services, which resulted in a change in the basic services fee.

Mr. Malbrough advised that last year we went out for proposals for our insurance renewals. The Board hired Louisiana Companies of Baton Rouge to help us review the proposals that were received, and assisted us with insurance claims. Mr. Malbrough recommended that we renew the consulting services agreement again this year with Louisiana Companies for \$12,500.00.

Moved by Commissioner Donald Schwab, seconded by Commissioner Eli Miles, Jr. to approve the Risk Management Consulting Services Agreement with Louisiana Companies for \$12,500.00. Motion carried unanimously.

Moved by Commissioner Windell Curole, seconded by Commissioner Judge Jimmy Gaidry to approve the Resolution for the Louisiana Compliance Questionnaire, and a copy of the adoption and questionnaire will be given to the auditor for the 2014 audit. Motion carried unanimously.

Mr. Malbrough advised that for the last two years the District sponsored a dinner for the BTNEP Bayou Lafourche Paddle Trip, and he recommended that we approve sponsoring the dinner this year.

Moved by Commissioner Judge Jimmy Gaidry, seconded by Commissioner Jake Giardina and unanimously approved to sponsor the dinner for the Bayou Lafourche Paddle Trip for an amount not to exceed \$2,500.00.

Mr. Malbrough stated that he got the UP agreement today, and gave it to Mr. Marionneaux for review.

Mr. Malbrough advised that one of the bayou crew guys found a message in a bottle in the bayou in Napoleonville. They opened it up and it was a thirteen year old girl that wrote it in the year 2000. We were able to track her down, and she came by today to get the message. She was all excited.

Mr. Malbrough stated that it was a good test to see if our social media was working because it was put on our Facebook page that we found the bottle. Mr. Malbrough showed a picture of the girl, Jenna Johnson, who wrote the message and Euel Zeringue, bayou employee who found the bottle and message.

Vice-Chairman Gene Harrell asked about the red marks appearing on the curving by the railroad tracks on the Hwy. 308 side, and Mr. Malbrough answered that it may be the survey crew for our Donaldsonville drainage project.

Mr. Nick Porto asked from what point the 500 feet they were talking about, and Chairman Caffery answered that it is from the center line of the bayou out 500 feet on each side. Mr. Porto asked if that will be brought up to a person that will be purchasing a piece of property. Chairman Caffery answered that he doesn't think we can influence that because that is a private transaction.

Mr. Porto stated that he thinks he should know about the District's rules and regulations before he buys a piece of property. Chairman Caffery stated that he doesn't think a seller is obligated to tell you about all the laws that affect that piece of property in the parish, State of Louisiana, or federal government. Chairman Caffery stated that the person should do their homework to know what affects that piece of property. Mr. Porto asked if there are any laws where the realtor has to be made aware of that. Chairman Caffery stated that he doesn't know any mechanism to make sure that all realtors are apprised of any changes not just here but any changes within the parish.

Vice-Chairman Gene Harrell stated that is why he brought up the question about the 500 feet as opposed to the high water mark. He stated that since this first dredge project stated it has gotten in peoples mind that there is an area on that bayou side that while they might own it, there is still some rights the State has there, and now we are looking at changing that distance again.

Moved by Commissioner Jake Giardina, seconded by Commissioner Francis Richard and unanimously approved to go into executive session at 6:10 p.m.

Moved by Commissioner Jake Giardina, seconded by Commissioner Windell Curole and unanimously approved to return to regular session at 6:30 p.m.

Moved by Commissioner Jake Giardina, seconded by Commissioner Francis Richard and unanimously approved the meeting adjourned at 6:30 p.m.

Hugh Chairman, Chairman

Greg Nolan, Secretary/Treasurer

